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November 19, 2010

**VIA ECF**

Honorable Garrett E. Brown, Jr., Chief, U.S.D.J.  
United States District Court  
for the District of New Jersey  
Clarkson S. Fisher Federal Bldg. & U.S. Courthouse  
402 E. State Street, Room 405  
Trenton, New Jersey 08608

**Re: Rocheux Intern'l of New Jersey, Inc. v. U.S. Merchants Financial Group, Inc., et al.**  
**Civil Action Number: 06-06147 (GEB)(ES)**

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Dear Chief Judge Brown:

This firm represents U.S. Merchants Financial Group, Inc., U.S. Merchants, Inc., The Merchant of Tennis, Inc. and Diversified Repackaging Corporation (collectively, "Defendants"), in the above-referenced matter. On November 12, 2010, Plaintiff Rocheux International of New Jersey, Inc. knowingly submitted to the Court an unauthorized reply brief to its motion for reconsideration. As a result, and for the reasons set forth below, Defendants respectfully request that the Court strike Plaintiff's reply brief or, in the alternative, grant Defendants leave to file a short, 3-page sur-reply to addressing certain issues raised therein.

Local Civil Rule 7.1(d)(3) clearly states that "No reply papers shall be filed on a motion for reconsideration...unless the Court otherwise orders." Plaintiff was well aware of this local rule and even sought leave from the Court to file a reply brief to its motion for reconsideration in a letter dated November 4, 2010. [Docket Entry No. 114]. In that letter, Plaintiff acknowledges that "[p]ursuant to Local Civ. R. 7.1(d)(3), reply briefs are not permitted on a motion for reconsideration *without court approval*." [Docket Entry No. 114] (emphasis supplied). Notwithstanding Plaintiff's awareness of the rule's existence and its prohibition on reply briefs to motions for reconsideration, Plaintiff apparently decided to file a reply brief without leave of Court. In the cover letter accompanying its unauthorized reply brief, Plaintiff notes that it "previously requested permission to submit a reply..." However, the rule clearly states that a court order is the necessary precondition -- not a mere request for permission -- to file a reply brief to a motion for reconsideration.

We respectfully submit that Plaintiff's improper submission should be disregarded and stricken from the record. However, should the Court choose to consider this unauthorized reply brief, Defendants respectfully request a 3-page sur-reply letter to address certain faulty and erroneous arguments asserted therein. Indeed, the local rules specifically provide for a final submission on a motion for reconsideration to be submitted by the party opposing

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reconsideration. To the extent the Court is willing to consider Plaintiff's improper reply papers, Defendants request leave to briefly address certain issues raised therein including, but not limited to, Plaintiff's faulty claim that Defendants did not dispute in its Response to Plaintiff's L.Civ.R. 56.1 Statement when Plaintiff's invoices were sent (which was not alleged in Plaintiff's L.Civ.R. 56.1 Statement), the materiality of the factual disputes and credibility determinations, and Defendants' defenses of waiver and prior objections. For the foregoing reasons, should the Court choose to consider the arguments raised in Plaintiff's unauthorized reply brief, Defendants respectfully request that the Court grant Defendants leave to file a short sur-reply to address these matters.

Should Your Honor have any questions or require any additional information regarding this matter, please have a member of Your Honor's staff contact me. We thank Your Honor for your kind consideration.

Respectfully submitted,

s/ Brian J. McMahon

Brian J. McMahon  
Director

cc: Brian W. McAlindin, Esq. (via ECF & regular mail)  
Nicholas Caputo (via ECF & regular mail)